

IN THE UNITED STATES NORTHERN  
DISTRICT COURT FOR CALIFORNIA

MICHAEL LYNN WATERS  
PLAINTIFF,

C 07-4683 - CRB (PR)  
CASE NO:

v.

A.W. COOK  
DEFENDANT(S)

TO: HON. U.S. DISTRICT COURT  
JUDGE: CHARLES R. BREYER

**FILED**

MAR 27 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EMERGENCY MOTION

REQUEST FOR PERMISSION  
TO PRESENT A DECLARATION  
TO DEFENDANT: DEPUTY WARDEN  
F. JACQUEZ, WHO IS THE KEY-  
EYEWITNESS TO CONCLUDE  
UNDISPUTED FACTS OF THIS CASE:

IN RESPONDING TO THE (WANER OF REPLY) DATED ON: (MARCH 12, 2008)  
BY DEFENDANTS ATTORNEY, DEFENDANT F. JACQUEZ, WHO PLAINTIFF  
REPEATEDLY ASKED THE (OTHER) DEFENDANT(S) TO SPEAK WITH TO PROVE  
THE SINGLE-CELL WAS ORDERED IN COMMITTEE BY HIM AND A.W.  
C. PATTEN: THESE WARDEN(S) ARE CLEARLY UNAWARE THAT CCIT-UNFOR,  
THE RECORDER —

IN PRO SE  
MICHAEL LYNN WATERS  
# P-16171 A-1-208  
PELICAN BAY STATE PRISON  
P.O. BOX 7500  
CRESCENT CITY, CALIFORNIA  
95532

IN THE COMMITTEE HAD PRESENTED FALSE DOCUMENTS BEFORE THEM TO (SIGN):

THEREFORE, PLAINTIFF NOW (SHALL) PRESENT A (NO) WIN SITUATION, WHERE THIS MATTER WAS ALWAYS A CLEAR MISUNDERSTANDING:  
SEE (EXHIBIT-A)

THE DECLARATION WHICH IS REQUESTED THAT DEFENDANT (F. JACQUEZ TO ANSWER UNDER OATH HIMSELF:

SEE (EXHIBIT-B)

WITHIN THE DECLARATION ITSELF, THE FALSE COMMITTEE DOCUMENT (3/8/06) WITHOUT ANY STATEMENTS? (PLAINTIFF WASN'T THERE),

SEE (EXHIBIT-C)

THE (602) SIGNED BY: F. JACQUEZ > GRANTING SINGLE-CELL STATUS ON (3/6/06) THE SAME DAY OF COMMITTEE ACTION:

SEE (EXHIBIT-D)

THE DELAY DATE OF (3/8/06) BECAUSE PLAINTIFF WAS PLACED IN THE INFIRMARY > CONCERNING (O.C.D.) AND OVER MEDICATED:

SEE (EXHIBIT-E) + (EXHIBIT-F)

THE ONLY (STATEMENT) BY: CCI-MELTON) THAT PLACED PLAINTIFF IN THE (BMU) PROGRAM AND TOOK HIS SINGLE-CELL, ON THE REQUEST FOR INTERVIEW: (ALSO: CCI-MELTON) WAS ON THE VERY SAME (COMMITTEE) TO PLACE PLAINTIFF IN THE BMU PROGRAM:

<CASE-LAW>

SEE (DIERCKS V. DURHAM, 959 F.2d 710 (8TH CIR. 1992) PRISON SUPERVISOR WHO SAT IN JUDGEMENT OF HER OWN COMPLAINT IN DISCIPLINARY PROCEEDINGS AGAINST INMATE VIOLATED INMATES DUE PROCESS RIGHTS AND WAS SUBJECT TO LIABILITY: >

CONCLUSION

PLAINTIFF CONTENTS HERE THAT - DUE TO THE PBSP OFFICIALS NOT WILLING TO QUESTION OTHER OFFICIALS AND), THAT ANY COMMITTEE ACTION PRESENTED IS TRUE AND) CORRECT.

HOWEVER, PLAINTIFF HAS ALWAYS BEEN AN OUTSPOKEN INMATE WHO WILL, MUST, SHALL, OPEN HIS MOUTH WHEN HE IS RIGHT, AS WELL AS, ALL COMMITTEE ACTIONS IN WHICH PLAINTIFF WAS PRESENT, HE HAD MADE SOMEKIND OF A STATEMENT.

PLAINTIFF NOW MUST REQUEST THAT THE DEFENDANT ANSWER TRUTHFULLY UNDER PENALTY OF PERJURY: AND) THAT F. JACQUEZ MAY REVIEW PLAINTIFF WHO IS IN (A-1-208) WITH (NO) PROBLEM TO (REFRESH) HIS MIND AS TO WHO I AM.

RESPECTFULLY

3/18/08

DATE:

MICHAEL LYNN WATERS

Michael Lynn Waters  
PRINT - SIGNATURE

PROOF OF SERVICECERTIFICATE OF SERVICE

I, MICHAEL LYNN WATERS, HEREBY CERTIFY THAT I AM OVER THE AGE OF (18) YEARS AND A PARTY TO THE WITHIN ACTION: ON, 3/18/08, SERVED THE WITHIN DOCUMENTS ON THE PARTY(S) LISTED BELOW:

BY PLACING SAID DOCUMENTS IN THE U.S. MAIL HERE AT: PELICAN BAY STATE PRISON - P.O. BOX 7500 - CRESCENT CITY, CALIFORNIA 95532.

(JUDGE'S)

OFFICE OF THE CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
450 GOLDEN GATE AVENUE  
SAN FRANCISCO, CALIFORNIA  
94102

ATTORNEY GENERAL'S  
OFFICE

LILY A. KORMAN  
DEPUTY ATTORNEY GENERAL  
455 GOLDEN GATE AVENUE,  
SUITE 11000,  
SAN FRANCISCO, CA  
94102-7004

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

3/18/08  
DATED

Michael Lynn Waters  
SIGNATURE

EXHIBIT

//

//

A



DECLARATION

I CHIEF DEPUTY WARDEN F. JACQUEZ HEREBY CERTIFY THAT I AM THE VERY SAME PERSON LISTED IN (EXHIBIT-B) THE SIGNED CHAIR PERSON.

I FURTHER STATE THAT I HAVE PERSONALLY CONFRONTED PLAINTIFF, INMATE (MICHAEL LYNN WATERS) # P-16171 A-1-208

AS THE ORDER OF THE UNITED STATES NORTHERN DISTRICT COURT OF CALIFORNIA (DISTRICT COURT JUDGE) (HON. CHARLES R. BREYER) HAS REQUESTED: I NOW HAVE FOUND THAT INMATE (WATERS) WAS THE VERY SAME INMATE WHO WAS IN A (HEATED) ARGUMENT WITH (A.W. C. PATTEN) IN COMMITTEE, CONCERNING HIS (O.C.D.) (MASTURBATION) ISSUES. AS INMATES KEPT STATING TO (A.W. C. PATTEN) TO SIGN HER OWN NAME STATING THAT SHE GAVE PERSONAL ORDERS TO HAVE INMATE (WATERS) TO DOUBLE-CELL WHILE IN (EOP).

I FURTHER STATE THAT I MYSELF STOPPED THIS ARGUMENT BETWEEN THEM, HAD (THE) (2) TWO ESCORTING OFFICIALS TO TAKE THIS INMATE OUTSIDE WHILE (WE) DISCUSSED THIS ISSUE. THE COMMITTEE THEN CONCLUDED THAT INMATE (WATERS) WOULD BECOME (SINGLE-CELL-STATUS) WHEN RELEASED INTO (EOP).

I FURTHER STATE THAT I WAS UNAWARE OF ANY (FALSIFIED) DOCUMENT OF THIS COMMITTEE ACTION OF (3-8-06). I ONLY ASSUMED THIS DOCUMENT TO HAVE BEEN CORRECT WHEN PLACED BEFORE ME TO SIGN.

I DID (SIGN) THE (602) ON (3/6/06) - THE SAME DAY AS (ICC) (EXHIBIT-E) AS LISTED UNDER APPEAL (A06-00110) WANTS SINGLE-CELL-STATUS (EXHIBIT-D) WAS THE DUE DATE (3-8-06) FOR THE DELAY DUE TO (WATERS) WAS PLACED IN THE (INFIRMARY)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

\_\_\_\_\_  
DATED / SIGNATURE

EXHIBIT

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B

State Of California

Department of Corrections  
CDC 128

No: P 16171 Name: WATERS, Michael

Housing: BU 115

Cust: CLOB

CS: 89 (IV ASU)

WG/PG: A2/B (3-30-05)

Assign: EOP Level IV

Rel Date: MEPD 3-29-17

Reclass: 3-29-06 (30 ASU) 12-20-06 (Ann)

Action: Auth Rel To PBSP IV GP EOP @ Bed Avail  
Reaff Cust, (OK D/C In GP), WG/PG A2/B

S appeared before Pelican Bay State Prison (PBSP) Facility B, Psychiatric Services Unit (PSU), Institution Classification Committee (ICC) for Initial Administrative Segregation Unit (ASU) Review. Prior to committee Correctional Counselor II (CCH), S. O'Dell was assigned as Staff Assistant and was present during committee. Committee effectively communicated with the S by use of simple English. Committee notes CDC Form 128-C, Medical/Madrid Chrono, dated 3-8-06 indicating Enhanced Outpatient Program (EOP) Level Of Care (LOC) and the S does meet the court ordered criteria for exclusion from PBSP Security Housing Unit (SHU). S was in PBSP Level IV General Population (GP) A-6 and has often refused to be double celled. S was moved to the infirmary 2-19-06, and to PBSP PSU on ASU status on 2-28-06, awaiting bed space in GP EOP. S need for EOP LOC supports PSU for EOP LOC pending GP Bed space. Prior to committee S was issued a copy of his CDC Form 114-D, Order and Hearing for Placement in Segregated Housing with no Investigative Employee assigned, as the issues are not complex and S did not reasonably request witnesses. Note Medical General Chrono CDC 128-B dated 10-11-05 which clears S for Double celling in GP. Note UCC action of 12-22-05 which clears S for double cell in GP.

**Committee acts to: Authorize Release To PBSP IV GP EOP, at Bed Availability; reaffirm custody as CLOB, cleared for double celling in GP; reaffirm Work and Privilege Group (WG/PG) as A2/B effective 3-30-05. This is a non-adverse transfer, and upon transfer S's Custody and Work/Privilege Group (WG/PG) shall be CLOB, A1/A.**

This action was with the recommendation and agreement of clinical mental health care staff in order to enhance S's mental health care needs. The Staff Mental Health Clinician, who was a participant in this committee, confirmed the S's LOC to be EOP. The Staff Mental Health Clinician indicated S has a high degree of participation in the Mental Health Program. The Staff Mental Health Clinician determined the S is capable of understanding and participating in the classification hearing. The Clinician recommended to the committee chairperson, the S should continue EOP LOC.

Case factors may be reviewed in CDC Form 128-G, Classification Chrono dated 1-11-05. S is not foreign born. There are no holds, escapes, arsons, or sex offenses noted. Disciplinary history includes last CDC form 115, Rule Violation Report (RVR) dated 12-19-04 for disrespect, with prior RVRs for threat to inmate, delaying a Peace Officer (P/O), disobeying orders, work failures, possession of weapon, disruptive, and falsifying documents. S has served two Security Housing Unit (SHU) Terms (S/Ts) with last Minimum Eligible Release Date (MERD) expiring 9-4-04. S is NDD per CDC Form 128-C2, Clark Medical Chrono dated 6-23-03. S is continually being evaluated for health care services per the Clark Decision, by his assigned clinician. TB Code is 22 per CDC Form 128-C, dated 4-5-05. Education level is noted as Reading Grade Point Level (RGPL) of 7.5. CDC Form 812, Notice Of Critical Case Information-Safety Of Persons does reflect enemies, but none at PBSP, and gang/TIP association of Bloods. S's confidential portion of his C-File is clear. County of Last Legal Residence (CLLR) is Los Angeles (LA), but S was also a then recent resident of Louisiana. S is ineligible for CCRC, CCF, MSF, Camp, SAP/SATF or Restitution Center placements due to his current Psychiatric concerns, and representing an unacceptable risk to the community. Restitution is required. Registration/Notification is required for Penal Code (PC) 3058.6, PC 296 (Blood & Saliva). S meets the criteria for 180 degree designed facility based on SHU/PSU placement within the last three years.

S's appeal rights were explained and the S acknowledged understanding of committee's actions and agrees with the action. S is advised that any appeal of the Committee action must be submitted to PBSP Appeals Office within 15 working days of date of committee, whether S has received his copy of CDC Form 128-G, Classification Chrono or not. Penal Code (PC) 2930 and PC 2934 complied with.

Com. Memb:

Chair: F. Jacquez, CDW(A)

C. Patten, A/W(A)

Recorder: R. A. Linfor, CCH

Clinician: V. Cappello, LCSW

Dist: ☒ C-File (Original) ☒ Inmate ☒ CCH ☐ OBIS ☐ CSR ☐ IGI ☐ PSYCH ☐ MED ☐ C&PR ☐ OTHER

Date: 3-8-06

Classification Chrono  
Initial ASU PSU ReviewPBSP Fac. B PSU  
RAL PSU Disk # 35 (P16171a.Doc)



EXHIBIT

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C

First Level ☒ Granted ☐ P. Granted ☐ Denied ☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 1-24-06

Due Date: 3-8-06

Interviewed by:

CCIT Swearingen

Staff Signature:

M. A. Smelosky

Title:

CIT

Date Completed:

3/16/06

Division Head Approved:

Signature:

Title:

AUSP

Returned

Date to Inmate:

3/6/06 03/08/06

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature:

Date Submitted:

Second Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned:

Due Date:

☐ See Attached Letter

Signature:

Date Completed:

Warden/Superintendent Signature:

Date Returned to Inmate:

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature:

Date Submitted:

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other☐ See Attached Letter

Date:

## INMATE/PAROLEE

## APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. PBSP

1. A06-00110

2/5

WANTS Single  
Cell Status.

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
MICHAEL L. WATERS	P-16171	NONE	A-6/218

## A. Describe Problem:

SEE ATTACHED PAGE + EXHIBIT

IT IS CLEARLY UNDERSTANDABLE THAT I DID DESCRIBE MY PROBLEM IN THIS SECTION, BUT ANYWAY, I HAVEN'T RECEIVED A COPY OF THE (SINGLE-CELL CHRONO) OF (10/13/05) THE SINGLE CELL STATUS THAT I'M IN NOW WAS BY THE (LCC-CAPTAIN) TO SEE THE DOCTORS/INTT - FOR FURTHER SINGLE-CELL, IN WHICH I SENT THE DOCTORS TODAY 12/7/05 - RUBEN + BUTLER > WHO STATED THAT THEY HAD INTT AND ME, WITH MR. THERE, BUT THERE IS NO RECORD OF IT, BUTLER STATED THE ONLY RECORDS HE HAS IS (FEB-05-05.)

SEE ATTACHED PAGE < PLEASE? THANK YOU >

If you need more space, attach one additional sheet.

## B. Action Requested:

TO HAVE COUNSEL/WATSON TO BACK OFF ME WITH HIS RECKLESS WAYS, AND BECAUSE OF ME BEING ON SINGLE-CELL NOW ~~AND~~ BY THE (CAPTAIN) THAT I SPEAK WITH (LIEUTENANT - P.I. TERRY) AND (DOCTOR RUBEN) ONLY, PLEASE ALLOW THE (LIEUTENANT) TO MAKE THE SINGLE-CELL-CALL.

Inmate/Parolee Signature:

Michael Lynn Waters

Date Submitted:

11/6/05

## C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response:

THEY FORCED ME TO LIVE WITH SOMEONE OUT OF EVILNESS, THEY RECORDS WILL PROVE MY POINTS,

Staff Signature:

Michael Waters

Date Returned to Inmate:

1-12-06

## D. FORMAL LEVEL

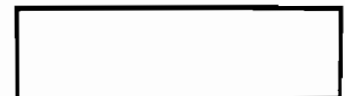
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: \_\_\_\_\_



1870  
NOV 15 2005

10  
DEC 9 2005

1st AWGP  
JAN 13 2006





State of California

Department of Corrections  
Pelican Bay State Prison

## Memorandum

Date : February 27, 2006

To : WATERS, P16171

~~15-0000000000001853~~

Log Number: PBSP-A-06-00110


Subject: **EXCEPTIONAL DELAY IN REVIEW OF APPEAL**

This is to notify you that the due date on the above referenced appeal has been extended for the following reason:

☒ Unavailability of the appellant, or staff or inmate witness.☒ Complexity of the decision, action, or policy.☐ Necessary involvement of other agencies or jurisdictions.

*Ilm is currently in infirmary in a crisis bed. He needs to be interviewed.*

This notification is required per the California Code of Regulations, Title 15, Section 3084.6(b)(6). The new estimated completion date is 03-08-06.

  
Appeals Coordinator  
Pelican Bay State Prison

CHECK (PSU) LOG  
BOOK AF (3-6-06)

## FIRST LEVEL APPEAL RESPONSE

DATE: March 3, 2006  
 APPEAL NUMBER: PBSP-A06-00110  
 INMATE: WATERS, P-16171  
 APPEAL DECISION: GRANTED

WRONG DATE

## APPEAL ISSUE (MODIFIED):

You are requesting to be single celled and to have that based on your mental health issues.

## FINDINGS:

D. Swearingen, Correctional Counselor II (CCII), was assigned to investigate your complaint as the First Level Reviewer. A review of your appeal, attachments, and prior staff responses has been completed. During the course of the investigation, the following information was noted:

An investigation of your complaint revealed you went from Building A6-218 to the Infirmary, on February 19, 2006, into a "Crisis Bed." You received a basic cell move on February 28, 2006, to B1-115 (PSU). You went to ICC committee on February 28, 2006, and were made single cell status. In your 602, you requested Lt. Terry, Facility A Lieutenant, to do the single cell review. This now appears to be a moot issue, as you are no longer on Facility A and you are currently single cell status in PSU. Your mental health issues are being addressed and the issues addressed in your 602 are currently in place.

## DETERMINATION OF ISSUE:

A thorough review of the allegation presented in this complaint has been completed. Based on the above, your appeal is Granted at the First Level of Review.

M. A. SMELOSKY  
 Facility Captain, Facility A

\*

FRANCISCO JACQUEZ  
 Associate Warden, General Population

YOU GRANTED/WROTE ON 3/6/06!

IF THE 602 WAS GRANTED ON  
 MARCH 3, 2006! THEREFORE, SINGLE CELL  
 STATUS FOR GP WAS ASKED IN MY 602!

WENT TO ICC ON 3-6-06!

MENTAL HEALTH PLACEMENT/REMOVALNAME: WATERS, MICHAEL CDC#: P-16171 HOUSING: CTC-185 DATE: 2-28-06

## COMPLETE SECTION "A" OR "B" AS APPROPRIATE:

A. This inmate has completed a mental health assessment with the following results:

☐ DOES NOT MEET COURT ORDERED AT RISK CRITERIA FOR EXCLUSION FROM SHU☒ MEETS COURT ORDERED AT RISK CRITERIA FOR EXCLUSION FROM SHU☐ DOES NOT MEET CRITERIA FOR INCLUSION IN THE MENTAL HEALTH TREATMENT POPULATION☒ MEETS INCLUSION CRITERIA FOR THE MENTAL HEALTH TREATMENT POPULATION☒ No ☐ Yes Inclusion is based upon Medical Necessity. (Obtain Chief Psychiatrist/Designee signature.)☒ PRESENTLY INCLUDED IN MENTAL HEALTH TREATMENT POPULATION, NEW LEVEL OF CARE.Level of Functioning Assessment (GAF) score or equivalent: 60 Psychotropic Medication: YES: ☒ NO: ☐

Behavioral Alerts: \_\_\_\_\_

Previous Level of Care:

☐ Inpatient DMH. ☒ Crisis Beds (MHCB) ☐ Enhanced Outpatient (EOP) ☐ Clinical Case Management (C<sup>3</sup>MS)  
☐ NO Mental Health Needs ☐ Other: \_\_\_\_\_

Treatment Team's Current Level of Care Recommendation:

☐ Inpatient DMH. ☐ Crisis Beds (MHCB) ☒ Enhanced Outpatient (EOP) ☐ Clinical Case Management (C<sup>3</sup>MS)  
☐ NO Mental Health Needs ☐ Other: \_\_\_\_\_B. THIS INMATE HAS COMPLETED A MENTAL HEALTH ASSESSMENT AND DOES NOT MEET CRITERIA FOR INCLUSION IN THE MENTAL HEALTH TREATMENT POPULATION. (Check applicable box below.)☐ As of \_\_\_\_\_ this CCCMS inmate is in remission and free of psychotropic medication. Clinical discharge from Mental Health Treatment Population will be on \_\_\_\_\_.☐ The inmate is removed from the Mental Health Treatment Population.☐ The inmate's clinical situation was one of medical necessity as diagnosed by CDC clinical staff on \_\_\_\_\_. Medical necessity is no longer applicable, treatment has stopped and the inmate is removed from Mental Health Treatment Population.☐ This inmate was initially designated as a Mental Health Treatment Population patient at a Reception Center or institution without a Mental Health Treatment Population program. Within the last 90 days the inmate has transferred to a Mental Health Treatment Population facility and a review of the inmate's Unit Health Record and assessment by the Interdisciplinary Treatment Team concludes the inmate does not meet the criteria for continued inclusion in the Mental Health Treatment Population.Additional Information: PX: SEVERE O.C.D.cc: CC-II  
C-File  
Health RecordsPaul C. Butler Ph.D.  
Treatment Team ChairpersonJVM  
Chief Psychiatrist or DesigneePaul C. Butler Ph.D.  
(Please print name legibly)J. DOUGLAS, MD  
(Please print name legibly)DATE: 2-28-06 NAME: WATERS, M. CDC#: P-16171 HOUSE: CTC-185 128-C PBSP

**NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION  
TO PHARMACY AFTER EACH ORDER IS SIGNED.**

### Plan

Plan D/Tm	Plan	Provider
02-20-2006 1249	<p>I suppose he could be a Bipolar with psychosis who is currently not manic or psychotic, but I strongly doubt that diagnosis based on the features of the case as they present now and the history. It is not clear that the psychotic symptoms are real at all and if they are they exist in complete isolation from any other aspects of any of the known Psychotic DOs. He does not have a drug history that would suggest an atypical psychosis etiology.</p> <p>I think there is probably something wrong with him, but it is not a psychotic disorder or a mood disorder. He is an ASPD with some sort of OCD syndrome. Over the years the secondary gains from being seen as severely mentally ill and the inadvertent teaching on how to present himself as such to MH professionals who do not look beneath the surface and take C/Os at face value has muddled the picture.</p> <p>What I do take at face value is that he is sincere when he says he wants help. When asked and listened to, what he clearly says he wants is counseling and a correct diagnosis that he can then learn about in order to be a real partner in his treatment. Instead, as he puts it, "all they do is give me medications". That he gets grossly sedated on average doses of Keppra and Geodon is a clue in itself that these medications are not addressing his real problem.</p> <p>He says he did the best when he was on Zoloft alone. Next best on Zoloft and Seroquel, once Seroquel was added for the "voices". The results of these meds trials reinforce the hypothesis that this illness may have started off as a form of OCD. Taken with the other information collected and the MSE, they are essentially dispositive.</p> <p>So my diagnosis is ASPD and OCD.</p> <p>We will start by stopping all his psych meds. In a few days we will start a trial of an SSRI.</p>	DOUGLAS, MD, JOHN

### Medications

Start D/Tm	Medication	Strength	Rte	Freq	Duration	Provider
02-20-2006 1306	PENICILLIN VK 500MG TABLET	500 MG	PO	QID	10	DOUGLAS, MD, JOHN
02-20-2006 1308	IBUPROFEN 800 MG TABLET	800 MG	PO	QIDPRN	10	DOUGLAS, MD, JOHN

Confidential client information  
See W & I Code, Sections 4514 and 5328

**PHYSICIAN'S ORDERS**

CDC #: P16171

Name(L,F,M,S): WATERS, MICHAEL



Visit Start Dt/Tm: 02-26-2006 0853 Encoun<sup>t</sup> Type: CTC ADMIT

Visit Reason: CTC MHCB

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## Objective

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## Medical Diagnosis

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Code: 999999 Description: BY HX BIPOLAR D/O W/ PSYCH. FEATURE

Axis: GAF: Status: COMPLETE Provider: LAKE, PSYD, CLAUDIA

Diagnosis Dt/Tm: 02-19-2006 1155 Resolve Dt/Tm: 02-22-2006 1115 Priority:

Notes:

Code: 999999 Description: OBSESSIVE COMPULSIVE DISORDER

Axis: I GAF: Status: CURRENT Provider: DOUGLAS, MD, JOHN

Diagnosis Dt/Tm: 02-22-2006 1117 Resolve Dt/Tm: 00-00-0000 0000 Priority: 001

Notes:

This is the correct diagnosis. Cease using the "complete" diagnosis.

## Plan

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Provider: LAKE, PSYD, CLAUDIA

Plan Dt/Tm: 02-26-2006 0856

Completed By:

Completed Dt/Tm:

Patient Education: N

Phone Order Status: NONE

Entry Date: 02-26-2006 0856

Entered By: MPIMSKL, LAKE, PSYD

Plan is to discharge today to EOP if bedspace is available.

## Order

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PHYSICIAN'S PROGRESS NOTES

CDC #: P16171

Name(L.F.M.S): WATERS, MICHAEL, ,

**Order****Medications**

Start Dt/Tm	Medication	Strength	Rte	Freq	Duration	Provider
02-22-2006 1133	ZOLOFT 100 MG TABLET	100 MG	PO	AM	14	DOUGLAS, MD, JOHN
02-28-2006 1024	ZOLOFT 100 MG TABLET	100 MG	PO	AM		DOUGLAS, MD, JOHN

**Treatments**

Start Dt:	CPT	Treatment	Freq	Anatomical Location	Provider
02-22-2006 1132	FULL	FULL ISSUE	NA		DOUGLAS, MD, JOHN
02-22-2006 1133	BC	BEHAVIOR CHECK Q1H FOR LOS	QH		DOUGLAS, MD, JOHN

**Tests**

Order Dt/Tm	Test/Instructions	Ordered By:
02-22-2006 1137	OTHER Zoloft level to be done in 10 days.	DOUGLAS, MD, JOHN

**Notes**

Entry Date: 02-22-2006 1053 Entered By: MPIMSJWD, DOUGLAS, MD

Today Dr Levine and I have a long diagnostic interview with him in the interview cell. As suspected, it turns out he has a number of obsessions and compulsions. He counts his paces in sixes and indeed does everything in sixes or multiples thereof. He has a big stack of legal papers and has to look at every page every day. He told me before that he masturbates five times every day, but now we know it is actually precisely six times per day.

His "voices" turn out not to be AVH, but are obsessional thoughts he perceives as unacceptable or alien.

Most tellingly, he was embarrassed by these symptoms and was reluctant to admit them--this in a man who had no inhibitions to claiming gross symptoms of psychosis. This shame over the symptomatic thoughts and actions is almost pathognomonic of OCD when present in the context of other features of the syndrome. He was also obviously relieved to have doctors ask him the right questions to reveal these symptoms.

I explained that this is a treatable illness these days with a much better prognosis than any chronic psychosis and with better tolerated treatment. We will not need to treat him with anything that will be likely to cause sedation.

PHYSICIAN'S PROGRESS NOTES

CDC #: P16171

Name(L.F.M.S): WATERS, MICHAEL, ,

**Plan****Provider:** DOUGLAS, MD, JOHN**Plan Dt/Tm:** 02-20-2006 1249**Completed By:****Completed Dt/Tm:****Patient Education:** N**Phone Order Status:** NONE**Entry Date:** 02-20-2006 1249**Entered By:** MPIMSJWD, DOUGLAS, MD

I suppose he could be a Bipolar with psychosis who is currently not manic or psychotic, but I strongly doubt that diagnosis based on the features of the case as they present now and the history. It is not clear that the psychotic symptoms are real at all and if they are they exist in complete isolation from any other aspects of any of the known Psychotic DOs. He does not have a drug history that would suggest an atypical psychosis etiology.

I think there is probably something wrong with him, but it is not a psychotic disorder or a mood disorder. He is an ASPD with some sort of OCD syndrome. Over the years the secondary gains from being seen as severely mentally ill and the inadvertent teaching on how to present himself as such to MH professionals who do not look beneath the surface and take C/Os at face value, has muddled the picture.

What I do take at face value is that he is sincere when he says he wants help. When asked and listened to, what he clearly says he wants is counseling and a correct diagnosis that he can then learn about in order to be a real partner in his treatment. Instead, as he puts it, "all they do is give me medications". That he gets grossly sedated on average doses of Keppra nad Geodon is a clue in itself that these medications are not addressing his real problem.

He says he did the best when he was on Zoloft alone. Next best on Zoloft and Seroquel, once Seroquel was added for the "voices". The results of these meds trials reenforce the hypothesis that this illness may have started off as a form of OCD. Taken with the other information collected and the MSE, they are essentially dispositive.

So my diagnosis is ASPD and OCD.

We will start by stopping all his psych meds. In a few days we will start a trial of an SSRI.

**PHYSICIAN'S PROGRESS NOTES****CDC #:** P16171**Name(L.F.M.S):** WATERS, MICHAEL, ,

(58)



(42)



## INMATE REQUEST FOR INTERVIEW

10/16/06

RECORDS OFFICE

WATERS

JOB NUMBER

P-16171

B-8-110

NONE

JOB NUMBER

FROM

TO

ASSIGNMENT NUMBER

FROM

TO

Clearly state your reason for requesting this interview.

You will be called in for interview in the near future if the matter cannot be handled by correspondence.

Hopefully, would you please send me a copy of ANY RECORD OR HOW TO RECEIVE (THAT I WAS (SINGLE-CELL-STATUS) WHILE IN (EOP) B-3-117-FROM (3-28-06) - JUNE-2006?) THANK YOU SO VERY MUCH. IT DON'T SHOW THIS SINGLE-CELL-ON PAPER-WORK?

Do NOT write on this form. If you do, it will be discarded.

Dmeltzer CCI

10-19-06

You were not single celled in EOP. You refused to double cell.



NO: P-16171

NAME: WATERS, Michael

Custody: CLO B

CS: 89 (IV)

C/C Eff. 09/21/06

RelDate: MEPD 03/29/2017

Reclass: 10/25/06

Housing: B8-110

Assignment: VUN

Action: PLACE IN BMU PROGRAM FOR 90 DAYS.  
PLACE ON STEP 1 OF ITP FOR 30 DAYS.  
ESTABLISH C/C EFFECTIVE 09/21/06.  
REMOVE FROM JOB ASSIGNMENT. REMOVE  
DUA WL.

Inmate Waters appeared before PBSP FAC B BMU UCC on this date for Initial Review. Committee notes CDC 128C, Mental Health Screening chrono, dated 06/15/06, denoting CCCMS level of care. DDP Review: 128C-2 in Central File. Prior to Committee, Correctional Counselor I Webster was assigned as staff assistant and was present during Committee. The staff assistant was assigned for the following reason: CCCMS level of care. Committee notes S has an RGPL of 7.5. Effective communication was achieved using short sentences and simple English, and S appeared to understand. Grooming standards and PBSP expectations were discussed and S stated he was willing to comply. Committee notes S's reason for Behavior Modification Unit (BMU) placement is due to: S was deemed a program failure defined by the CCR, Title 15, Section 3000 by ICC. S is determined to be compatible with another inmate and refuses to voluntarily double cell, or refuses to participate in the racial integration policy as defined in the Johnson v. State of California settlement agreement. The Director's rules, PBSP expectations, and specific privileges and non-privileges of WG/PG C/C were thoroughly explained. Placement score is a current Level IV score of 89 points. Mandatory score of 19 is noted for VIO suffix. S was advised to notify staff immediately of any enemy situation which may arise. Committee noted S has no cellmate, and the "S" suffix has not previously been applied. S is approved for 180 design facilities. S meets 180 Design Level IV criteria due to Code A1 (SHU placement during the last three years). **Committee acts to place S into the BMU program for 90 days and place on step # 1 of Individual Treatment Plan (ITP) for 30 days. S advised of his ITP which includes the basic requirement that he remain disciplinary free for 90 days prior to any consideration for his release from BMU and his completion of the selected behavior modification assignments. Establish WG/PG C/C status effective 09/21/06. Remove from current assignment (Voluntarily unassigned) and DUA waiting list, and continue at CLO B custody. S was reviewed and cleared for double celling noting no history of in-cell violence. S participated, acknowledged understanding, and disagreed with Committee action, stating "I never did tell UCC that I would not take a cellie. I'm not refusing a cellie, but if I go into the cell there is probably going to be a problem." UCC stated there is no documentation to substantiate single cell status. S continued stating "Put your John Hancock on it and then I will do what you say."** S is eligible to work around computers, computer systems, or be in areas that may have access to personal information per PC 2702, PC 502, or PC 5071. PC 2933 and 2930 complied with. S was advised of Committee's decision and his right to appeal. The inmate has been advised that any appeal of this committee action must be submitted within 15 working days of this date, whether he has received the CDC form 128-G classification chrono or not. Next scheduled Committee will be on 10/25/06 for Program Review. BPH DOC # 1 Hearing scheduled in 03/2013.

CHAIRPERSON:

M. FOSS/FC

J. ROBERTSON/CCII

S. ROBERTS/EDUCATION

RECORDER: D. MELTON /CCI

☐ OBIS ☐ CSR ☐ IGI ☐ PSYCH ☐ MED ☐ OTHER

Committee Date: 09/21/06

(MELTON/ew)

Classification

FAC-B BMU UCC

INITIAL REVIEW

Inst: PBSP

MICHAEL LYNN WATERS # PL6171

A-1-208

PELIDAN BAY STATE PRISON

P.O. BOX 7560

CRESCENT CITY, CALIFORNIA

95532

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10: (MON. U.S. DISTRICT COURT

JUDGE: (CHARLES R. BREYER)

CLERK) AT:

U.S. DISTRICT COURT FOR THE  
ORTHER DISTRICT OF CALIFORNIA  
U.S. DISTRICT COURTHOUSE  
450 GOLDEN GATE AVE, 16TH FLOOR,  
SAN FRANCISCO, CALIFORNIA

94102